



**REPORT OF THE AUDITOR OF PUBLIC ACCOUNTS
AUDIT EXAMINATION OF THE
FORMER McCREARY COUNTY SHERIFF**

Calendar Year 1998

**EDWARD B. HATCHETT, JR.
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CONTENTS

PAGE

INDEPENDENT AUDITOR'S REPORT	1
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES	3
NOTES TO FINANCIAL STATEMENT	5
COMMENTS AND RECOMMENDATIONS.....	9
REPORT ON COMPLIANCE AND ON INTERNAL CONTROL OVER FINANCIAL REPORTING BASED ON AN AUDIT OF THE FINANCIAL STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS.....	13



Edward B. Hatchett, Jr.
Auditor of Public Accounts

To the People of Kentucky

Honorable Paul E. Patton, Governor

John P. McCarty, Secretary

Finance and Administration Cabinet

Sarah Jane Schaaf, Secretary, Revenue Cabinet

Honorable Jimmie W. Greene, County Judge/Executive

Honorable Regal Bruner, McCreary County Sheriff

Honorable McArthur Swain, Former McCreary County Sheriff

Members of the McCreary County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of receipts, disbursements, and excess fees of the former Sheriff of McCreary County, Kentucky, for the year ended December 31, 1998. This financial statement is the responsibility of the former Sheriff. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with generally accepted auditing standards, Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the former Sheriff was required to prepare the financial statement on a prescribed basis of accounting that demonstrates compliance with the cash basis and laws of Kentucky, which is a comprehensive basis of accounting other than generally accepted accounting principles. This cash basis system does not require the maintenance of a general fixed asset group or general long-term debt group of accounts. Accordingly, the accompanying financial statement is not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the receipts, disbursements, and excess fees of the former Sheriff for the year ended December 31, 1998, in conformity with the basis of accounting described above.

To the People of Kentucky

Honorable Paul E. Patton, Governor

John P. McCarty, Secretary

Finance and Administration Cabinet

Sarah Jane Schaaf, Secretary, Revenue Cabinet

Honorable Jimmie W. Greene, County Judge/Executive

Honorable Regal Bruner, McCreary County Sheriff

Honorable McArthur Swain, Former McCreary County Sheriff

Members of the McCreary County Fiscal Court

Based on the results of our audit, we have presented the accompanying Comments and Recommendations, included herein, which discusses the following areas of noncompliance:

- The Former Sheriff Should Have Had A Written Agreement To Protect Deposits
- The Former Sheriff Should Have Prepared And Published An Annual Settlement

In accordance with Government Auditing Standards, we have also issued a report dated July 15, 1999, on our consideration of the former Sheriff's compliance with certain laws and regulations and internal control over financial reporting.

Respectfully submitted,



Edward B. Hatchett, Jr.

Auditor of Public Accounts

Audit fieldwork completed -
July 15, 1999

McCREARY COUNTY
McARTHUR SWAIN, FORMER SHERIFF
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES

Calendar Year 1998

Receipts

Federal Grants	\$	31,231	
State Fees For Services:			
Finance and Administration Cabinet	\$	7,198	
Cabinet For Human Resources		404	
Delinquent Taxes		<u>5,561</u>	13,163
Circuit Court Clerk:			
Sheriff Security Service	\$	6,009	
Fines and Fees Collected		3,171	
Court Ordered Receipts		<u>486</u>	9,666
Fiscal Court			150
County Clerk - Delinquent Taxes			5,791
Commissions On Taxes Collected			56,427
Fees Collected For Services:			
Auto Inspections	\$	7,410	
Accident and Police Reports		279	
Serving Papers		6,000	
Arrest Fees		<u>130</u>	13,819
Other:			
Carrying Concealed Deadly			
Weapons Permits			4,565
Adanta Contract			8,976
Sheriff's Fees			1,554
Miscellaneous			1,079
Interest Earned			2,386
Borrowed Money:			
State Advancement			<u>19,552</u>
Gross Receipts (Carried Forward)	\$		168,359

McCREARY COUNTY
 McARTHUR SWAIN, FORMER SHERIFF
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES
 Calendar Year 1998
 (Continued)

Gross Receipts (Brought Forward)	\$	168,359
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Disbursements

Operating Disbursements and Capital Outlay:

Personnel Services-

Deputies' Gross Salaries	\$	42,490
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Part-Time Gross Salaries		10,009
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Contracted Services-

Advertising		38
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Materials and Supplies-

Office Materials and Supplies		1,703
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Auto Expense-

Gasoline, Parts, and Repairs		29,245
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Other Charges-

Dues		25
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Postage		318
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Bond		221
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Computer Service -Tax Bills		2,701
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Dog Licenses		281
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Carrying Concealed Deadly		
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Weapons Permits		3,285
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Miscellaneous		25
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Capital Outlay-

Office Equipment		1,598
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Vehicles		4,000
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Debt Service:

State Advancement		19,552
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Total Disbursements		115,491
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Net Receipts	\$	52,868
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Less: Statutory Maximum		48,726
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Excess Fees Due County for Calendar Year 1998	\$	4,142
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Payments to County Treasurer Subsequent to Audit Date - July 30, 1999		4,142
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Balance Due at Completion of Audit	\$	0
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The accompanying notes are an integral part of the financial statement.

McCREARY COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 1998

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of receipts over disbursements to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

The financial statement has been prepared on a cash basis of accounting pursuant to KRS 68.210 as recommended by the State Local Finance Officer. Revenues and related assets are generally recognized when received rather than when earned. Certain expenses are recognized when paid rather than when a liability is incurred, including capital asset purchases. Certain other expenses are recognized when a revenue and the related asset can be associated with a corresponding liability due another governmental entity.

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a multiple-employer public retirement system that covers all eligible full-time employees. Benefit contributions and provisions are established by statute. Nonhazardous covered employees are required to contribute 5.0 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 8.65 percent.

McCREARY COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 1998
(Continued)

Note 2. Employee Retirement System (Continued)

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is present in the Kentucky Retirement Systems' annual financial report which is a matter of public record.

Note 3. Deposits

The former Sheriff maintained deposits with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC). According to law, the depository institution should pledge sufficient securities as collateral which, together with FDIC insurance, equals or exceeds the amount on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge of securities should be evidenced by an agreement that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution. This agreement, signed by both parties, must be sufficient to create an enforceable and perfected security interest in the collateral under Kentucky law. The depository institution had made such a pledge, and the depository institution's board of directors or loan committee approved the pledge. However, the depository institution did not have a written agreement with the former Sheriff.

Note 4. Drug Control Account

The former Sheriff opened a drug control account on April 29, 1994, with forfeited drug money. This is a restricted account and may only be used for drug control. As of January 1, 1998, this account had a balance of \$4,049. During calendar year 1998, the Sheriff received \$350 for court ordered payments to the Sheriff's office and earned \$79 in interest. Funds totaling \$3,434 were expended and the remaining \$1,044 was transferred to the current Sheriff.

Note 5. Grant

In 1996, the former Sheriff was awarded a reimbursing grant under the Community Oriented Policing Services (COPS) Program from the Department of Justice in the amount of \$41,199 to be expended over three years. As of January 1, 1998, the grant balance was \$15,899. During calendar year 1998, the former Sheriff received and expended \$14,231. The county received the remaining grant balance of \$1,668 on March 13, 1999 to cover its matching expenditures.

COMMENTS AND RECOMMENDATIONS

McCREARY COUNTY
McARTHUR SWAIN, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS

Calendar Year 1998

STATE LAWS AND REGULATIONS:

1) The Former Sheriff Should Have Had A Written Agreement To Protect Deposits

The former Sheriff maintained deposits with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC). The Sheriff had a bank balance of \$835,829; FDIC insurance of \$100,000; and securities pledged of \$865,000, as of August 11, 1998. Even though the former Sheriff obtained pledged securities of \$865,000, the pledge was not evidenced by a written agreement with the depository institution. This agreement, signed by both parties, must be sufficient to create an enforceable and perfected security interest in the collateral under Kentucky law. According to federal law, 12 U.S.C.A § 1823(e), this agreement should be (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution. The former Sheriff obtained a written agreement to protect deposits October 14, 1998.

Management's Response:

We were not informed that a written agreement was required until October, 1998.

2) The Former Sheriff Should Have Prepared And Published An Annual Settlement

The former Sheriff did not prepare or publish an annual settlement. KRS 134.310 requires that the Sheriff file an annual settlement which contains a complete statement of all funds received by his office for official services as well as all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses. In addition, KRS 424.220(6) requires that the financial statements be published within 60 days after the close of the calendar year. We recommend the Sheriff's office comply with these statutes by preparing and publishing an annual settlement.

Management's Response:

No comment.

PRIOR YEAR:

In the prior year audit, we reported that the former Sheriff did not publish an annual settlement or have a written agreement to protect deposits.

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REPORT ON COMPLIANCE
AND ON INTERNAL CONTROL OVER FINANCIAL
REPORTING BASED ON AN AUDIT OF THE FINANCIAL STATEMENT
PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



Edward B. Hatchett, Jr. Auditor of Public Accounts

Honorable Jimmie W. Greene, County Judge/Executive
Honorable Regal Bruner, McCreary County Sheriff
Honorable McArthur Swain, Former McCreary County Sheriff
Members of the McCreary County Fiscal Court

Report On Compliance And On Internal Control Over Financial Reporting Based On An Audit Of The Financial Statement Performed In Accordance With Government Auditing Standards

We have audited the former McCreary County Sheriff as of December 31, 1998, and have issued our report thereon dated July 15, 1999. We conducted our audit in accordance with generally accepted auditing standards and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether the former McCreary County Sheriff's financial statement as of December 31, 1998, is free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance that are required to be reported under Government Auditing Standards which are described in the accompanying Comments and Recommendations.

- The Former Sheriff Should Have Had A Written Agreement To Protect Deposits
- The Former Sheriff Should Have Prepared And Published An Annual Settlement

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the former McCreary County Sheriff internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statement and not to provide assurance on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over financial reporting that might be material weaknesses. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statement being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses.

Honorable Jimmie W. Greene, County Judge/Executive
Honorable Regal Bruner, McCreary County Sheriff
Honorable McArthur Swain, Former McCreary County Sheriff
Members of the McCreary County Fiscal Court
Report On Compliance And On Internal Control
Over Financial Reporting Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

This report is intended for the information of management. However, this report, upon release by the Auditor of Public Accounts, is a matter of public record and its distribution is not limited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ed Hatchett", with a long horizontal flourish extending to the right.

Edward B. Hatchett, Jr.
Auditor of Public Accounts

Audit fieldwork completed -
July 15, 1999

